

REMARKS

Claims 1–11, 13–18, 20–37, 39–43, 45–60, 62–65, 67–81, 83–85, and 87–103 are pending in the Application, of which Claims 1, 27, 52, 53, 74, 94, 95, 97, and 98 are independent. Applicants have added Claims 99–103; support for these new claims may be found throughout the Specification, for example, at least at page 9, lines 17–21, as originally filed. Claim Claims 1–11, 13–18, 20–37, 39–43, 45–60, 62–65, 67–81, 83–85, and 87–98 stand rejected in the Application. The rejections are respectfully traversed and reconsideration is requested.

Applicants note that the Office Action, at page 2, fails to reference Fotta in its initial rejection, but later references and uses Fotta for the §103(a) rejection. Additionally, Applicants note that Claim 52 was mistakenly left out of the rejection and requires review with similar Claims 1, 27, and 97. Further, Applicants note that the Examiner stated on page 2, number 2, of the Office Action that Claims “88–89” were rejected. With reference to these inconsistencies, Applicants’ assumed for purposes of responding to this Office Action that Fotta was mistakenly forgotten, that Claim 52 was similarly forgotten (and instead Claim 54 was written) and that the Office actually intended Claim “54” to state Claim “52”; and that the Office actually intended Claims “88–89” to mean “88–94 and 97–98” and Applicants respond accordingly.

Rejection of Independent Claims 1, 27, 52, and 97

Claims 1–11, 13–18, 21–37, 39–43, 46–60, 62–65, 68–81, 83–85, 88–94 and 97–98 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Garfinkel *et al.*, U.S. Pat. No. 6,330,317 (hereinafter “Garfinkel”), in view of Fotta *et al.*, U.S. Pat. No. 6,130,937 (hereinafter “Fotta”), and further in view of Fergusson *et al.*, U.S. Patent Pub. No. 2003/0212566 (hereinafter “Fergusson”).

Regarding independent Claims 1, 27, 52, and 97, the Office Action acknowledges that Garfinkel fails to teach “the list of exempted identifiers including a date of contact associated with the each exempted destination identifier, the date of contact corresponding to a business transaction or inquiry by a customer associated with the exempted destination identifiers; and,

the control unit determining whether to allow communications connection depending on a duration that the particular exemption is valid from the date of contact.” The Examiner cites Fotta and Fergusson for Garfinkel’s failures. Applicants respectfully disagree for the reasons set forth below.

Garfinkel discloses a call blocking system that automatically blocks outgoing calls “taking into account factors such as preexisting customers which may be legally contacted.” Garfinkel, Abstract; col. 2, line 65 through col. 3, line 1). In other words, Garfinkel’s override/allow list simply overrides or allows the customer company to contact any person on such list, without reference to any other criteria.

Fotta discloses a system and process for automatic storage, enforcement, and override of consumer do-not-call requests and includes a control device for selectively blocking communication between a device and a destination.

Fergusson discloses methods and systems for providing assistance with do-no-call compliance. While Fergusson does deal with allowing calls under certain conditions and may look at databases to “determine the length of time since the prospective client transacted business with the organization” (see paragraphs [0051]–[0052] and [0074]–[0076]), such approach requires thoroughly searching (mining) of databases followed by comparison with other parameters.

The portion of Fotta cited by the Office fails to disclose “*the date of contact [associated with each exempted destination identifier] corresponding to a business transaction or inquiry by a customer associated with the exempted destination identifier,*” as recited in Claim 1. In actuality, Fotta merely discusses the process of adding or overriding an identifier to a database where “the phone number [being added] is then indexed into the database in the corresponding file and the date and time fields are updated for the number being added.” See Fotta, col. 7, line 55 through col. 8, line 30. The “date and time” fields updated in Fotta correspond to a process of adding or overriding an identifier to a database. Because Fotta fails to disclose any teachings to the contrary, Fotta’s dates and times are merely the date and time the information was in some way accessed by the agent/user for the purpose of adding or overriding. Fotta’s statements regarding viewing archives (see col. 12, lines 10–39) further fail to disclose any use or association of the dates and times for any purpose other than when the “administrators may also

record the time (of day), in addition to the date, of each DNC add, delete and override." At no point does Fotta disclose dates and times corresponding to a business transaction or inquiry, only dates and times of additions and overrides of information. *See* Fotta, col. 12, lines 28–31. Fotta's recordation and knowledge of dates and times fails to disclose *"the date of contact [associated with each exempted destination identifier] corresponding to a business transaction or inquiry,"* as recited in Claim 1 (emphasis added).

The Office further cited Fergusson for disclosing Garkinkel's and Fotta's failures. Applicants respectfully disagree. Fergusson fails to teach or disclose *"the control unit determining whether to apply a particular exemption to allow the communications connection depending on a duration that the particular exemption is valid from the date of contact,"* as recited in Claim 1. To the contrary, the disclosed portions of Fergusson merely disclose making a determination as to whether an existing relationship exists with a potential client, not whether to make a determination to apply an exemption based on duration of the exemption. In order for Fergusson to even determine if a prior existing relationship exists, Fergusson must search through ("mine") multiple databases in order to determine what would constitute a prior relationship because of the multitude of differing state regulations. Moreover, once Fergusson's laborious mining process is completed, nothing more is done with the located information other than making a note of it. Such mined information regarding prior relationship status is recorded in a database, not used to *"determin[e] whether to apply a particular exemption,"* as required by Claim 1.

Therefore, in reference to the above arguments, Applicants respectfully submit that Claim 1 is novel and non-obvious over Garfinkel, alone or in combination with Fotta and Fergusson. Independent Claims 27, 52, and 97 include similar elements presented above in reference to Claim 1, and, thus, those claims are submitted to be novel and non-obvious over the cited art for at least the same reasons. Claims 2–11, 13–18, 21–26, 28–37, 39–43, and 46–51, which depend from independent Claims 1 or 27, and include the same elements as the independent claims from which they depend, are believed to be novel and non-obvious for at least the same reasons as presented above. As such, Applicants respectfully request withdrawal of the rejections of Claims 1–11, 13–18, 21–37, 39–43, 46–60, 62–65, 68–81, 83–85, 88–94 and 97–98 under 35 U.S.C. §103(a), and allowance of same.

Rejection of Independent Claims 53, 74, 94, and 98

Regarding independent Claims 53, 74, 94, and 98, the Office admits that Garfinkel fails to teach “an interface unit that receives one or more proposed destination identifiers; the list of exempted identifiers including a date of contact corresponding to a business transaction or inquiry by a customer associated with the exempted destination identifier; and the control unit determining whether to allow communications connection depending on a duration that the particular exemption is valid from the date of contact.” The Office Action again looks to Fotta and Fergusson for the features lacking in Garfinkel. Applicants respectfully disagree.

In contrast to Garfinkel, Applicants’ claimed inventions set forth in Claims 53, 74, 94, and 98 are directed to an analysis system for selectively designating- , a method of selectively designating- , a computer readable medium...that selectively designates- , and system with a means for selectively designating- *“whether a communications connections between an origin and one or more destinations are prohibited,”* respectively.

Applicants respectfully note the clearly patentably distinguishing difference between analyzing and designating whether or not a communications connection is prohibited and using that information at another time as required by Applicants’ Claims. In contrast to Applicants’ Claims 53, 74, 94, and 98, Garfinkel merely discloses executing an algorithm to determine whether or not to block or allow calls, and “[d]epending on this determination, either the call is blocked...or routed normally.” See Garfinkel, col. 5, lines 23–34. Garfinkel’s control computer makes a determination for the purpose of allowing or prohibiting the call; Garfinkel completely fails to disclose any *“analysis unit that designates whether the communications connection between an origin and...proposed destinations are prohibited or allowed,”* as recited in Applicants’ Claim 53. The inventions of Claims 53, 74, 94, and 98 describe analyzing a possible communications connection in order to designate such as prohibited or allowed, so that after such a designation is made, the analysis can be used in a plethora of different manners. No such analyzing or designating is disclosed in Garfinkel.

Furthermore, the Office again cites Fotta as disclosing *“the date of contact [associated with each exempted destination identifier] corresponding to a business transaction or inquiry by a customer associated with the exempted destination identifier,”* as recited in Claim 53. Fotta

again fails to disclose any such date of contact information as required by Applicants' Claim 53 for similar reasons as argued above in reference to Claim 1.

The Office again further cited Fergusson for disclosing Garkinkel's and Fotta's failures. Fergusson again fails to teach or disclose "*the analysis unit determining whether to apply a particular exemption to allow the communications connection depending on a duration that the particular exemption is valid from the date of contact,*" as recited in Claim 53. Fergusson again fails to disclose any such determination as required by Applicants' Claim 53 for similar reasons as argued above in reference to Claim 1.

Therefore, in reference to the above arguments, Applicants respectfully submit that Claim 53 is novel and non-obvious over Garfinkel, alone or in combination with Fotta and Fergusson. Independent Claims 74, 94, and 98 include similar elements presented above in reference to Claim 53, and, thus, those claims are submitted to be novel and non-obvious over the cited art for at least the same reasons. Claims 54-60, 62-65, 68-73, 75-81, 83-85, and 88-93, depend from independent Claims 53 or 74, and include the same elements as the independent claims from which they depend, and are believed to be novel and non-obvious for at least the same reasons as presented above. As such, Applicants respectfully request withdrawal of the rejections of Claims 53-60, 62-65, 68-81, 83-85, 88-94, and 98 under 35 U.S.C. §103(a), and acceptance of same.

Rejection of Claims 20, 45, 67, and 87

Claims 20, 45, 67, and 87 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Garfinkel in view of Fotta, and further in view of Fergusson, and further in view of Prince, U.S. Pat. Pub. No. 2004/0148506 (hereinafter "Prince"). Prince discloses a method and apparatus for a non-revealing do-not-contact lists system in which a do-not-contact list of one-way hashed consumer contact information is provided to a set of one or more entities. Claim 20, 45, 67, and 87 depend from Claims 1, 27, 53, and 74, respectively, and as such, include the same elements of the claims from which they depend. Because Prince fails to cure the deficiencies in Garfinkel, Fotta, and Fergusson, Applicants submit that Claims 20, 45, 67, and 87 are novel and non-obvious over the cited art for at least the same reasons as presented above. As such, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §103(a), and acceptance of same.

Rejection of Claims 95 and 96

Claims 95 and 96 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Garfinkel in view of Kikinis *et al.*, U.S. Pat. No. 5,960,073 (hereinafter “Kikinis”). Kikinis is related to providing an interactive home agent with access to call center functionality and resources. The system of Kikinis is particularly suited for calls dialed in to a call center that are then transferred to an at-home agent, not vice versa. In particular, calls are re-directed to a home-based agent with the resources to allow the home-based agent to handle calls as if the agent were located in the call center. The on page 13 of the Office Action the Office states that “it would have been obvious to...modify the invention disclosed in Garfinkel with the invention disclosed in Kikinis.” Applicants respectfully disagree and submit that the Office has failed to meet its initial burden of establishing a *prima facie* case of obviousness with respect to Claims 95 and 96.

One of ordinary skill in the art would not be motivated to combine Garfinkel and Kikinis because such a combination would require Garfinkel to be significantly modified so as to require a substantial changes in its principle of operation. Specifically, Garfinkel requires reviewing outgoing calls in order to determine if numbers being dialed are on a do-not-call list; whereas, Kikinis only allows for telephone transfers that come into a call center to be forwarded from the call center to the home-agent. Therefore, no person of ordinary skill in the art would consider combining the one-way methodology of Kikinis (forwarding incoming calls at a call center to an at-home agent) with Garfinkel, which requires reviewing outgoing calls by a telemarketer – not incoming calls.

Section 2145(III) states that “the claimed combination cannot change the principle of operation of the primary reference or render the reference inoperable for its intended purpose,” and refers to section 2143.01 of the MPEP. Since Kikinis is concerned with calls being dialed-in to a call center and Garfinkel is concerned with reviewing out-going calls from a call center, such a combination would require a substantial change in the principle of operation of Garfinkel such that Garfinkel reviewed incoming calls, which would defeat its purpose. Thus, the proposed combination of the prior art would change the principle of operation of Garfinkel, such that the teachings of the references are not sufficient to render the claims *prima facie* obvious,

and therefore, the combination of Garfinkel and Kikinis does not teach or suggest this feature of Claim 95.

Additionally, even if one were to combine Garfinkel and Kikinis, the combination would fail to disclose Applicants' Claim 95 because Kikinis fails to disclose "*at the connection unit, interacting with a control unit to validate the dialed number, and upon successful validation by the control unit, prompting the client agent for identification and authentication information,*" as recited in Claim 95 (emphasis added). Specifically, Kikinis (as noted above) only allows for calls to be forwarded from a call center to the at-home agent, therefore, no call would ever be dialed by the at-home agent. If no number is ever dialed by the at-home agent, then no connection unit "*interacting with a control unit to validate the dialed number,*" would ever be established because no number was ever dialed. Thus, Kikinis further fails to disclose this feature of Claim 95.

Therefore, in reference to the above arguments, Applicants respectfully submit that Claim 95 is novel and non-obvious over Garfinkel, alone or in combination with Kikinis. Claim 96 depends from independent Claims 95, and includes the same elements as the independent claim from which it depends, and, thus, is believed to be novel and non-obvious for at least the same reasons as presented above. As such, Applicants respectfully request withdrawal of the rejections of Claims 95-96 under 35 U.S.C. §103(a), and acceptance of same.

Information Disclosure Statement


An Information Disclosure Statement (IDS) is being filed concurrently herewith. Entry of the IDS is respectfully requested.

CONCLUSION

In view of the above remarks, it is believed that all claims that will be pending after entry of this Amendment, namely Claims 1-11, 13-18, 20-37, 39-43, 45-60, 62-65, 67-81, 83-85, and 87-103, are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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